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**WOLF GREENFIELD & SACKS, P.C.**  
**600 ATLANTIC AVENUE**  
**BOSTON, MA 02210-2206**

**MAILED**

**APR 20 2011**

**OFFICE OF PETITIONS**

In re Application of  
**Goro SHIRAIKI, et al.**

Application No. 10/551,403

Filed: September 29, 2005

Attorney Docket No. **S1459.70086US00**

DECISION DISMISSING PETITION  
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 11, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED AS MOOT**.

Unfortunately, the petition was not referred to the appropriate deciding official for decision until after the issuance of this application into a patent. However, petitioner's attention is directed to 37 CFR 1.313(d), which states:

A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**. (Emphasis added)

In this case, the petition was not received in the Office of Petitions for consideration until April 20, 2011. Therefore, as the case has now issued, the petition to withdraw from issue cannot be granted.

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of this application into a patent and will not be processed.

Accordingly, the \$810 filing fee and the \$130 petition fee submitted are unnecessary and will be refunded in due course.

The Information Disclosure Statement has been made of record in the file of the above-identified application without further consideration. See 37 CFR 1.97(i).

Petitioner is advised, that while petitions to withdraw from issue may be mailed to the Commissioner for Patents, as was done in this case, applicants were cautioned to hand carry or fax petitions to withdraw from issue directly to the Office of Petitions. See MPEP § 1308.

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

/Monica A. Graves/  
Petitions Examiner, Office of Petitions



Docket No.: S1459.70086US00  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Goro Shiraishi et al.  
Serial No.: 10/551,403  
Confirmation No.: 4461  
Filed: September 29, 2005  
For: TEMPO ANALYSIS APPARATUS AND METHOD  
Examiner: A. R. Millikin  
Art Unit: 2832

**VIA HAND DELIVERY – APRIL 7, 2011**

**Customer Service Window, Mail Stop 313(c)  
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401 Dulany Street  
Alexandria, Virginia 22314**

NSPTO  
COUNTING  
DIVISION

**PETITION TO WITHDRAW APPLICATION FROM**  
**ISSUE PURSUANT TO 37 CFR 1.313(c)(2)**

Dear Sir:

Petitioner hereby petitions the Commissioner to withdraw the above-identified application from issue. The Issue Fee in this application was timely paid on March 7, 2011.

Please charge our Deposit Account No. 23/2825 in the amount of \$940.00 covering the fees set forth in 37 CFR 1.17(h) and 1.17(e).

Petitioner respectfully petitions that the above-identified application be withdrawn from issue in order to permit consideration of a submission under 37 CFR 1.114 (Request for Continued Examination with an Information Disclosure Statement) a copy of which is enclosed.

The Director is hereby authorized to charge any deficiency or credit any overpayment in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 23/2825, under Docket No. S1459.70086US00.

2295830 1

Dated: April 7, 2011

Respectfully submitted,

By Randy J. Pritzker  
Randy J. Pritzker  
Registration No.: 35,986  
WOLF, GREENFIELD & SACKS, P.C.  
600 Atlantic Avenue  
Boston, Massachusetts 02210-2206  
617.646.8000



(Under the Paperwork Reduction Act of 1995, no person are required to respond to a collection of information unless it displays a valid OMB control number.)

**PETITION FEE**  
**Under 37 CFR 1.17(f), (g) & (h)**  
**TRANSMITTAL**  
(Fees are subject to annual revision)

Send completed form to: Commissioner for Patents  
P.O. Box 1450, Alexandria, VA 22313-1450

Application Number	10/551,403-Conf. #4461
Filing Date	September 29, 2005
First Named Inventor	Goro Shiraishi
Art Unit	2832
Examiner Name	A. R. Millikin
Attorney Docket Number	S1459.70086US00

Enclosed is a petition filed under 37 CFR 1.313 that requires a processing fee (37 CFR 1.17(f), (g), or (h)). Payment of \$ 130.00 is enclosed.  
This form should be included with the above-mentioned petition and faxed or mailed to the Office using the appropriate Mail Stop (e.g., Mail Stop Petition), if applicable. For transmittal of processing fees under 37 CFR 1.17(l), see form PTO/SB/17.

**Payment of Fees** (small entity amounts are NOT available for the petition fees).

- The Commissioner is hereby authorized to charge the following fees to Deposit Account No. 23/2825:  
 petition fee under 37 CFR 1.17(f), (g) or (h)     any deficiency of fees and credit of any overpayments
- Check in the amount of \$ \_\_\_\_\_ is enclosed.
- Payment by credit card (Form PTO-2038 or equivalent enclosed). Do not provide credit card information on this form.

**Petition Fees under 37 CFR 1.17(f): Fee \$400 Fee Code 1462**

For petitions filed under:

- § 1.36(a) – for revocation of a power of attorney by fewer than all applicants
- § 1.53(e) – to accord a filing date.
- § 1.57(a) – to accord a filing date.
- § 1.182 – for decision on a question not specifically provided for.
- § 1.183 – to suspend the rules.
- § 1.378(e) – for reconsideration of decision on petition refusing to accept delayed payment of maintenance fee in an expired patent.
- § 1.741(b) – to accord a filing date to an application under § 1.740 for extension of a patent term.

**Petition Fees under 37 CFR 1.17(g): Fee \$200 Fee Code 1463**

For petitions filed under:

- § 1.12 – for access to an assignment record.
- § 1.14 – for access to an application.
- § 1.47 – for filing by other than all the inventors or a person not the inventor.
- § 1.58 – for expungement of information.
- § 1.103(a) – to suspend action in an application.
- § 1.136(b) – for review of a request for extension of time when the provisions of section 1.136(a) are not available.
- § 1.295 – for review of refusal to publish a statutory invention registration.
- § 1.296 – to withdraw a request for publication of a statutory invention registration filed on or after the date the notice of intent to publish issued.
- § 1.377 – for review of decision refusing to accept and record payment of a maintenance fee filed prior to expiration of a patent.
- § 1.550(c) – for patent owner requests for extension of time in *ex parte* reexamination proceedings.
- § 1.956 – for patent owner requests for extension of time in *inter partes* reexamination proceedings.
- § 6.12 – for expedited handling of a foreign filing license.
- § 5.15 – for changing the scope of a license.
- § 5.25 – for retroactive license.

**Petition Fees under 37 CFR 1.17(h): Fee \$130 Fee Code 1484**

For petitions filed under:

- § 1.19(g) – to request documents in a form other than that provided in this part.
- § 1.84 – for accepting color drawings or photographs.
- § 1.91 – for entry of a model or exhibit.
- § 1.102(d) – to make an application special.
- § 1.138(c) – to expressly abandon an application to avoid publication.
- § 1.313 – to withdraw an application from issue.
- § 1.314 – to defer issuance of a patent.

Randy J. Pritzker

Signature

Randy J. Pritzker

Typed or printed name

April 7, 2011

Date

35,986

Registration No., if applicable

**UNITED STATES PATENT & TRADEMARK OFFICE**  
Washington, D.C. 20231

<b>REQUEST FOR PATENT FEE REFUND</b>				
1 Date of Request: <u>04/20/11</u>		2 Serial/Patent # <u>10/551,403</u>		
3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
<input type="checkbox"/>	Filing			\$
<input type="checkbox"/>	Amendment			\$
<input type="checkbox"/>	Extension of Time			\$
<input type="checkbox"/>	Notice of Appeal/Appeal			\$
<input checked="" type="checkbox"/>	Petition <u>1464</u>	PETWDISS	04/11/11	\$ <u>130.00</u>
<input type="checkbox"/>	Issue			\$
<input type="checkbox"/>	Cert of Correction/Terminal Disc.			\$
<input type="checkbox"/>	Maintenance			\$
<input type="checkbox"/>	Assignment <u>1801</u>	RCEX	04/11/11	\$ <u>810.00</u>
		7 TOTAL AMOUNT OF REFUND	\$ <u>940.00</u>	
8 TO BE REFUNDED BY:				
10 REASON:		Treasury Check		
<input type="checkbox"/>	Overpayment	Credit Deposit A/C #:		
<input type="checkbox"/>	Duplicate Payment	9 <table border="1" style="display: inline-table; vertical-align: middle;">2 3 -- 2 8 2 5</table>		
<input checked="" type="checkbox"/>	No Fee Due (Explanation):  Petition received LATE (after application already issued)			
11 REFUND REQUESTED BY:				
TYPED/PRINTED NAME: <u>Monica A. Graves</u>		TITLE: <u>Paralegal Specialist</u>		
SIGNATURE: <u>/Monica A. Graves/</u>		PHONE: <u>(571) 272-7253</u>		
OFFICE: <u>Office of Petitions</u>				
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APPROVED: <u>/b/</u>		DATE: <u>4/24/11</u>		

*Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:*

**Office of Finance  
Refund Branch  
Crystal Park One, Room 802B**